

AMENDED IN SENATE AUGUST 31, 2000  
AMENDED IN SENATE AUGUST 28, 2000  
AMENDED IN SENATE JUNE 21, 2000  
AMENDED IN SENATE JUNE 8, 2000  
AMENDED IN ASSEMBLY JANUARY 12, 2000  
AMENDED IN ASSEMBLY JANUARY 3, 2000  
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1338**

**Introduced by Assembly Member Reyes**

February 26, 1999

---

---

~~An act to amend Sections 1684, 1684.5, 1687, 1691, 1698, and 1698.1 of, and to add Sections 1682.8, 1690.2, and 1695.55 to, the Labor Code, relating to farm labor contractors, and making an appropriation therefor.—An act to amend Sections 1684, 1684.5, 1687, 1698, and 1698.1 of, and to add Sections 1682.8 and 1695.55 to, the Labor Code, relating to farm labor contractors.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1338, as amended, Reyes. Farm labor contractors: licenses.

Existing law prescribes various fines and penalties for farm labor contractors who violate provisions of the law applicable to farm labor contractors.

This bill would authorize the Labor Commissioner to establish and maintain a Farm Labor Contractor Special Enforcement Unit, as specified, to enforce provisions of law relating to farm workers, as provided. ~~The bill would also authorize the Labor Commissioner to permanently revoke the license of any farm labor contractor after 2 or more violations.~~

Existing law requires farm labor contractors to deposit a surety bond in the sum of \$10,000, as a condition to obtain a license from the Labor Commissioner. The contractor is permitted to give a deposit in lieu of a bond.

This bill would require a farm labor contractor to deposit a surety bond in ~~a specified amount~~ *amounts* based on the size of the person's payroll, as provided. Farm labor contractors would no longer be permitted to give a deposit instead of a bond.

Existing law requires farm labor contractors to pay a \$350 annual license fee.

This bill would increase the licensing fee to \$500.

Existing law provides that \$25 of the annual licensing fee be deposited into a separate account, funds from which are to be disbursed by the Labor Commissioner to persons damaged by licensees.

This bill would designate the Farmworker Remedial Account as the separate account, increase to \$50 the amount of the licensing fee deposited into that account, provide that all other license fees be deposited in the State Treasury and credited to the General Fund.

Existing law requires the Labor Commissioner to annually submit a list of licensees to the Department of the California Highway Patrol.

This bill would require that lists of licensees be submitted on a quarterly basis.

Existing law requires contractors to furnish growers with a payroll list of all of all the contractor's employees working for the grower.

This bill would require contractors to furnish growers with additional payroll records reflecting the hours worked by employees and the wage paid.



Existing law requires that applicants for a farm labor contractor's license take an oral or written examination or both.

This bill would require applicants to take only a written examination and answer 85% of the questions correctly in order to obtain a license. This bill *would* further ~~requires~~ *require* that licensees participate annually in 8 hours of continuing education courses approved by the Labor Commissioner, in consultation with specified ~~others~~ *public officers and agencies*.

Vote:  $\frac{2}{3}$  majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 1682.8 is added to the Labor~~  
2     *SECTION 1. Section 1682.8 is added to the Labor*  
3     *Code, to read:*  
4     *1682.8. The Labor Commissioner may establish and*  
5     *maintain a Farm Labor Contractor Special Enforcement*  
6     *Unit within the Division of Labor Standards Enforcement*  
7     *office in Fresno of the Department of Industrial Relations*  
8     *for the hiring of additional agents to enforce the*  
9     *provisions of this chapter by revoking, suspending, or*  
10    *refusing to renew farm labor contractors' licenses*  
11    *pursuant to Section 1690.*  
12    *SEC. 2. Section 1684 of the Labor Code is amended to*  
13    *read:*  
14    1684. The Labor Commissioner shall not issue to any  
15    person a license to act as a farm labor contractor, nor shall  
16    the Labor Commissioner renew that license, until all of  
17    the following conditions are satisfied:  
18    (a) The person has executed a written application  
19    therefor in a form prescribed by the Labor  
20    Commissioner, subscribed and sworn to by the person,  
21    and containing all of the following:  
22    (1) A statement by the person of all facts required by  
23    the Labor Commissioner concerning the applicant's  
24    character, competency, responsibility, and the manner  
25    and method by which the person proposes to conduct

1 operations as a farm labor contractor if the license is  
2 issued.

3 (2) The names and addresses of all persons, except  
4 bona fide employees on stated salaries, financially  
5 interested, either as partners, associates, or profit sharers,  
6 in the proposed operation as a farm labor contractor,  
7 together with the amount of their respective interests.

8 (3) A declaration consenting to the designation by a  
9 court of the Labor Commissioner as an agent available to  
10 accept service of summons in any action against the  
11 licensee if the licensee has left the jurisdiction in which  
12 the action is commenced or otherwise has become  
13 unavailable to accept service.

14 (b) The Labor Commissioner, after investigation, is  
15 satisfied as to the character, competency, and  
16 responsibility of the person.

17 (c) The person has deposited with the Labor  
18 Commissioner a surety bond in ~~the amount of ten~~  
19 ~~thousand dollars (\$10,000).~~ *Where an amount based on*  
20 *the size of the person's annual payroll for all employees,*  
21 *as follows:*

22 *(1) For payrolls up to five hundred thousand dollars*  
23 *(\$500,000), a twenty-five thousand dollar (\$25,000) bond.*

24 *(2) For payrolls of five hundred thousand dollars*  
25 *(\$500,000) to two million dollars (\$2,000,000), a fifty*  
26 *thousand dollar (\$50,000) bond.*

27 *(3) For payrolls greater than two million dollars*  
28 *(\$2,000,000), a seventy-five thousand dollar (\$75,000)*  
29 *bond.*

30 *Where* the contractor has been the subject of a final  
31 judgment in a year in an amount equal to that of the bond  
32 required, he or she shall be required to deposit an  
33 additional bond within 60 days. The bond shall be payable  
34 to the people of the State of California and shall be  
35 conditioned that the farm labor contractor will comply  
36 with all the terms and provisions of this chapter and will  
37 pay all damages occasioned to any person by failure to do  
38 so, or by any violation of this chapter, or false statements  
39 or misrepresentations made in the procurement of the  
40 license. The bond shall also be payable for interest on

1 wages and for any damages arising from violation of  
2 orders of the Industrial Welfare Commission, but shall not  
3 be payable for penalties on nonpayment or late payment  
4 of wages pursuant to Section 203. ~~If a deposit is given~~  
5 ~~instead of a bond, the Labor Commissioner may charge~~  
6 ~~reasonable legal fees against the deposit for handling~~  
7 ~~claims, other than wage claims, filed against the deposit.~~

8 (d) The person has paid to the Labor Commissioner a  
9 license fee of ~~three hundred fifty dollars (\$350)~~ *five*  
10 *hundred dollars (\$500)* plus a filing fee of ten dollars  
11 (\$10). However, where a timely application for renewal  
12 is filed, the ten dollar (\$10) filing fee is not required. The  
13 Labor Commissioner shall deposit ~~twenty-five dollars~~  
14 ~~(\$25)~~ *fifty dollars (\$50)* of each licensee's annual license  
15 fee into ~~a separate account~~ *the Farmworker Remedial*  
16 *Account*. Funds from this account shall be disbursed by  
17 the Labor Commissioner only to persons determined by  
18 the Labor Commissioner to have been damaged by any  
19 licensee when the damage exceeds the limits of the  
20 licensee's bond, or to persons determined by the Labor  
21 Commissioner to have been damaged by an unlicensed  
22 farm labor contractor. In making these determinations,  
23 the Labor Commissioner shall disburse funds from the  
24 ~~account~~ *Farmworker Remedial Account* to satisfy claims  
25 against farm labor contractors or unlicensed farm labor  
26 contractors, which shall also include interest on wages  
27 and any damages arising from the violation of orders of  
28 the Industrial Welfare Commission, but shall not include  
29 penalties on nonpayment or late payment of wages  
30 pursuant to Section 203. ~~Any disbursement of funds from the~~  
31 ~~account to satisfy a claim against an unlicensed farm labor~~  
32 ~~contractor shall not exceed ten thousand dollars~~  
33 ~~(\$10,000).~~ *The Labor Commissioner may disburse funds*  
34 *from the Farmworker Remedial Account to farm labor*  
35 *contractors, for payment of farmworkers, where a*  
36 *contractor is unable to pay farmworkers due to the failure*  
37 *of a grower or packer to pay the contractor. Any*  
38 *disbursed funds subsequently recovered by the Labor*  
39 *Commissioner pursuant to Section 1693, or otherwise,*

1 shall be returned to the ~~separate account~~ *Farmworker*  
2 *Remedial Account*.

3 (e) The person ~~in an oral or~~ *has taken a* written  
4 examination, ~~or both,~~ *that* demonstrates an essential  
5 degree of knowledge of the current laws and  
6 administrative regulations concerning farm labor  
7 contractors as the Labor Commissioner deems necessary  
8 for the safety and protection of farmers, farmworkers,  
9 and the public. ~~This examination~~ *To successfully*  
10 *complete the examinations, the person must correctly*  
11 *answer at least 85 percent of the questions posed. The*  
12 *examination period shall not exceed four hours. The*  
13 *examination may only be taken a maximum of three times*  
14 *in a calendar year. The examinations shall include a*  
15 demonstration of knowledge of the current laws and  
16 regulations regarding wages, hours, and working  
17 conditions, *penalties,* employee housing and  
18 transportation, collective bargaining, field sanitation, and  
19 safe work practices related to pesticide use, including all  
20 of the following subjects:

- 21 (1) Field reentry regulations.  
22 (2) Worker pesticide safety training.  
23 (3) Employer responsibility for safe working  
24 conditions.  
25 (4) Symptoms and appropriate treatment of pesticide  
26 poisoning.

27 ~~The~~  
28 (f) (1) *The* Labor Commissioner shall consult with  
29 the Director of Pesticide Regulation, the Department of  
30 the California Highway Patrol, the Department of  
31 Housing and Community Development, the  
32 Employment Development Department, the  
33 Department of Food and Agriculture, the Department of  
34 Motor Vehicles, and the Division of Occupational Safety  
35 and Health in preparing ~~this~~ *the examination required by*  
36 *subdivision (e)* and the appropriate educational  
37 materials pertaining to the matters included in the  
38 examination, and may charge a fee of not more than one  
39 hundred dollars (\$100) to cover the cost of administration  
40 of the examination.

~~(f)~~

(2) *In addition, the person must enroll and participate in at least eight hours of relevant, educational classes each year. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in paragraph (1) and county agricultural commissioners.*

(g) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in subdivision (e) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) *Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.*

(4) Has complied with all other requirements of this section.

~~(g)~~

(h) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act, when registration is required pursuant to federal law.

SEC. 3. *Section 1684.5 of the Labor Code is amended to read:*

1684.5. The Labor Commissioner shall ~~annually~~ *quarterly* submit to the Department of the California Highway Patrol a list of all licensees.

1     *SEC. 4. Section 1687 of the Labor Code is amended to*  
2     *read:*

3     1687. (a) Each *laminated* license shall contain, on the  
4     face thereof, all of the following:

5     (1) The name and address of the licensee and the fact  
6     that the licensee is licensed to act as a farm labor  
7     contractor for the period upon the face of the license only.

8     (2) The number, date of issuance, and date of  
9     expiration of the license.

10    (3) The amount of the surety bond deposited by the  
11    licensee.

12    (4) The fact that the license may not be transferred or  
13    assigned.

14    (5) A *picture of the licensee taken at the time of*  
15    *application.*

16    (b) *The license shall be similar in size and format to a*  
17    *driver's license issued by the Department of Motor*  
18    *Vehicles, and shall contain a hologram and a signature to*  
19    *verify authenticity. The cost of the hologrammed license*  
20    *shall be appropriated from the license fee.*

21    (c) The license shall contain on the back thereof the  
22    definition of a farm labor contractor, as defined by  
23    subdivision (b) of Section 1682.

24    *SEC. 5. Section 1695.55 is added to the Labor Code, to*  
25    *read:*

26    1695.55. (a) *Every person acting in the capacity of a*  
27    *farm labor contractor shall provide any grower with*  
28    *whom he or she has contracted to supply farmworkers a*  
29    *payroll record for each farmworker providing labor*  
30    *under the contract. The payroll record shall include a*  
31    *disclosure of the wages and hours worked for each*  
32    *farmworker.*

33    (b) *Each grower entering into a contract with a farm*  
34    *labor contractor shall retain a copy of the payroll record*  
35    *provided by the contractor for the duration of the*  
36    *contract.*

37    *SEC. 6. Section 1698 of the Labor Code is amended to*  
38    *read:*

39    1698. All moneys collected for ~~licenses and all~~ fines  
40    collected for violations of the provisions of this chapter



1 shall be paid into the Farmworker Remedial Account and  
2 shall be available, upon appropriation, for purposes of this  
3 chapter. Except as provided in Section 1684, all moneys  
4 collected for licenses issued pursuant to this chapter shall  
5 be paid into the State Treasury and credited to the  
6 General Fund.

7 SEC. 7. Section 1698.1 of the Labor Code is amended  
8 to read:

9 1698.1. No licensee shall sell, transfer or give away any  
10 interest in or the right to participate in the profits of said  
11 licensee's business without the written consent of the  
12 Labor Commissioner. A violation of this section shall  
13 constitute a misdemeanor, and shall be punishable by a  
14 fine of not less than ~~one hundred dollars (\$100)~~ two  
15 hundred dollars (\$200) nor more than ~~one thousand~~  
16 ~~dollars (\$1,000)~~ two thousand dollars (\$2,000), or  
17 imprisonment for not more than 60 days, or both.

18  
19  
20 **All matter omitted in this version of the**  
21 **bill appears in the bill as amended in the**  
22 **Senate, August 28, 2000 (JR 11)**  
23  
24